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OFFICE OF THE CLERK
SUPREME COURT, U.S.

81-5386
NO._____

IN THE SUPREME COURT OF THE UNITED STATES

October Term 1981

HAL M. ROGERS, Appellant

vs.

LARRY JINKS, P. ANTHONY RIDDER
SAN JOSE MERCURY NEWS

Appellees

ON APPEAL FROM THE UNITED STATES COURT OF APPEAL

NINTH CIRCUIT

APPENDCIES

LIST OF APPENDICES

APPENDIX A

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(Jan.31 1979

APPENDIX D ORDER OF DISMISSAL WITH PREJUDICE District Court

APPENDIX E PETITION FOR REHEARING DENIED District Court of Appeals July 6th,1981

APPENDIX F NOTICE OF APPEAL TO THE SUPRME COURT OF UNITED STATES Filed in Court oa Appeals AUGUST 7th,1981
MOTION FOR CORRECTION OF ERROR In APPEAL TO THE UNITED STATES COURT NOTICE to Court of Appeals Dated August 20th,1981

FILED

MAR 26 1981

RICHARD H. DEANE
CLERK, U.S. COURT OF APPEALS

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

HAL M. ROGERS, Plaintiff-Appellant, v. LARRY JINKS, P. ANTHONY RIDDER, SAN JOSE MERCURY, San Jose News, et al., Defendants-Appellees.	No. 79-4190 D.C. No. C 78-1074-SW (SJ) MEMORANDUM

Appeal from the United States District Court
for the Northern District of California
Spencer Williams, District Judge, Presiding
Submitted December 29, 1980

Before: ANDERSON, ALARCON, and POOLE, Circuit Judges.

Rogers appeals from a district court order dismissing his action for lack of subject matter jurisdiction. Rogers alleged in his amended complaint that his constitutional rights were violated when the San Jose Mercury refused to publish his articles concerning a California initiative.

Governmental intrusion into the function of editors cannot be reconciled with the first amendment guarantee of a free press. Miami Heralo Publishing Co. v. Tornillo, 418 U.S. 241 (1974). Courts have consistently refused to overturn editorial decisions not to print material volunteered by the public. See, e.g., Mississippi Gay Alliance v. Goudelock, 536 F.2d 1073 (5th Cir. 1976), cert. denied, 430 U.S. 982 (1977); Avins v. Rutgers, the State University of New Jersey, 385 F.2d 151 (3rd Cir. 1967), cert. denied, 390 U.S. 920 (1968). Thus, Rogers' contention is foreclosed by prior decisions and the refusal to entertain jurisdiction was proper. See Oneida Indian Nation v. County

Memorandum, Affirmed District Court of Appeal Mar. 26, 1981
APPENDIX "A"

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ORIGINAL
FILED
JAN 31 1979
WILLIAM L. WHITTAKER
CLERK, U. S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

HAL M. ROGERS, Plaintiff, vs. LARRY JINKS, et al., Defendants.	No. C 78-1074 SW (SJ) ORDER OF DISMISSAL WITH PREJUDICE

This matter came on regularly for hearing on January 19, 1979, before the Honorable SPENCER WILLIAMS, Judge of the above-entitled Court located at 175 West Taylor, San Jose, California, LOUIS ONEAL appearing as attorney for defendants LARRY JINKS, P. ANTHONY RIDDER, SAN JOSE MERCURY and SAN JOSE NEWS, and plaintiff HAL. M. ROGERS appearing in propria persona. Upon the evidence, both oral and documentary, presented in this action, and upon the files and records in this matter, the Court concludes it lacks jurisdiction of the subject matter of this action, as follows:

1. This Court does not have jurisdiction of this action under 28 U.S.C. § 1332. Paragraph VII of the First Amended Complaint refers to 28 U.S.C. § 1332 and recites the general proposition that federal district courts have jurisdiction of civil actions between parties of diverse citizenship. However,

of Oneida, 414 U.S. 661, 666 (1974); Timberlane Lumber Co. v. Bank of American N.T. & S.A., 549 F.2d 597, 602 (9th Cir. 1976).

The district court properly rejected Rogers' claim of jurisdiction under 28 U.S.C. § 2201. The Declaratory Judgment Act is not a jurisdictional statute. Jarrett v. Resor, 426 F.2d 213, 216 (9th Cir. 1970).

AFFIRMED.

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APPENDIX B-1

TITLE 28 U.S.C. Section 1331 FEDERAL QUESTION; AMOUNT IN CONTROVERSY; COSTS

(a) The district court shall have original jurisdiction of all civil actions wherein the matter in controversy exceeds the sum or value of $10,000, exclusive of interest and costs, and arises under the Constitution, laws or treaties of the United State except that no such sum or value shall be required in any such action brought against the United States, any agency thereof, or any officer or employee thereof in his official capacity.

(b) Except when a express provision thereof is otherwise made in a statute of the United States, where the plaintiff is finally adjudged to be entitled to recover less than the sum or value of $10,000, computed without regard to any setoff or counterclaim to which the defendant may be adjudged to be entitled, and exclusive of interests and costs, the district court may deny costs to the plaintiff and, in addition may impose costs on the plaintiff.

APPENDIX B-2

TITLE 28, U.S.C. Section 1332 DIVERSITY OF CITIZENSHIP; AMOUNT IN CONTROVERSY; COSTS

(a) The district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of $10,000, exclusive of interest and costs and is between---

(1) Citizens of different States;

(2) Citizens of a State and citizens or subjects of a foreign State

(3) Citizens of different States and in which citizens

or subjects of a foreign State are additional parties; and

(4) A foreign State, defined in Section 1603(a) of this title, as plaintiff and citizens of a State or of different States

(b) Except when express provision therefor is otherwise made in a statute of the United States, where the plaintiff who files the case originally in the Federal courts is finally adjudged to be entitled to recover less than the sum value of $10,000, computed without regard to any setoff or counterclaim to which the defendant may be adjudged to be entitled, and exclusive of interest and costs, the district court may deny costs to the plaintiff and, in addition, may impose costs on the plaintiff.

(c) For the purposes of this Section and Section 1441 of this title, a corporation shall be deemed a citizen of any State by which it has been incorporated and of the State where it has its principal place of business: Provided further, that in any direct action against the insurer of a policy or contract of liability insurance, whether incorporated or unincorporated, to which action the insured is not joined as a party-defendant, such insurer shall be deemed a citizen of the State of which the insured is a citizen, as well as of any State by which the insurer has been incorporated and of the State where it has its principal place of business.

(d) The word "States", as used in this section, includes the Territories, the District of Columbia, and the Commonwealth of Puerto Rico.

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APPENDIX B-3

TITLE 28 U.S.C. Section 2201 CREATION OF A REMEDY

In a case of actual controversy within its jurisdiction, except with respect to Federal taxes other than actions brought under Section 7428 of the Internal Revenue Code of 1954, any court of the United States, upon the filing of an appropriate pleading, may declare the rights and other legal relations of any interested party seeking such declaration, whether or not further relief is or could be sought. Any such declaration shall have the force and effect of a final judgment or decree and shall be reviewable as such.

APPENDIX B-4

TITLE 28 U.S.C. Section 2202 FURTHER RELIEF

Further necessary or proper relief based on a declaratory judgment or decree may be granted, after reasonable notice and hearing, against any adverse party whose rights have been determined by such judgment.

APPENDIX B-5

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RULE 57 FRCP DECLARATORY JUDGMENTS

The procedure for obtaining a declaratory judgment pursuant to Title 28 U.S.C. Section 2201, shall be in accordance with these rules, and the right to trial by jury may be demanded under the circumstances and in the manner provided in Rules 38 and 39. The existence of another adequate remedy does not preclude a judgment for declaratory relief in cases where it is appropriate. The court may order a speedy hearing of an action for a declaratory judgment and may advance it on the calendar.

APPENDIX B-6 ROGERS v. SAN JOSE MERCURY NEW

APPEAL FILED U.S. SUPREME COURT 9/8/81 Plaintiff's Opposition to Dismiss 7/3/

Mr. Larry Jinks, Executive Editor
SAN JOSE MERCURY-NEWS
750 Ridder Park Drive,
San Jose, California 95190

85 East San Fernando Street,
San Jose, California 95113
March 13th, 1978

Dear Mr. Jinks:

Since the first announcement in the paper that the Jarvis-Gann initiative had been placed on the ballot, there has been a continuing series of articles that have appeared almost daily in the SAN JOSE MERCURY and the SAN JOSE NEWS. Better than 95% of these articles have been "anti" Jarvis-Gann or Proposition 13th on the June 6th California primary ballot.

Since the "pro" side of this initiative enjoys approximately 5% coverage in the two papers that you supervise, I ask that "equal space" be provided on a per column inch basis to the proponents of the Jarvis-Gann initiative. This printed "equal space" to be provided by your writing staff or by the acceptance of material written by outside sources who are conversant with the initiative and the financing arrangements which would occur should this initiative pass.

I would appreciate a reply from you at your earliest convenience as to whether you and your papers would be willing to give the proponents of Proposition 13 "equal space" on a per column inch basis to define the merits of the Jarivs-Gann initiative.

Awaiting your reply, I remain,

Sincerely yours,

Hal M. Rogers

P.S. A partial listing of articles by date and page number;

2/8	14A	3/2	11-A
2/17	1-F	3/4	16-A
2/10	17-A	3/4	1
2/18	14-A	3/4	8-B
2/24	16-A	3/7	5-A
2/26	3-A	3/7	7-A
3/1	4-A	3/8	8-B
3/1	1-E	3/9	11-A

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EXHIBIT "A"

APPENDIX "B" Exhibit B-6 Letter from Appellant to L.Jinks
San Jose Mercury-News March 13,1978

APPEAL FILED U.S.SUPREME COURT 9/8/81 Plaintiff's Opposition to Dismiss 7/3/78

San Jose Mercury News

750 RIDDER PARK DRIVE, SAN JOSE, CALIFORNIA 95190 · (408) 289-5513

LARRY JINKS
Editor

March 14, 1978

Mr. Hal M. Rogers
85 East San Fernando Street
San Jose, California 95113

Dear Mr. Rogers:

I assume that you are characterizing as "anti Jarvis-Gann articles" all of those which quote public officials who have made statements about the effect of the amendment on their operations. Since it is our general policy to quote such officials on matters of clear public interest, I question the characterization.

As you must be aware, when we asked for opinions for our Saturday editorial forum, we gave heavy emphasis to letters in favor of the initiative. When prominent public figures have come out in favor of the initiative, such as former Chief Ed Davis of Los Angeles, we have printed that fact. We have printed comments of both Mr. Jarvis and Mr. Gann.

Also, our political editor, Dale Lane, has been asked to arrange for one of the sponsors of the initiative to appear before our editorial board to discuss the effects of the initiative.

We will be seeking to print legitimate news about the initiative as it develops. We will not be measuring column inches and certainly will not be accepting someone else's measurements.

I will particularly welcome hearing about any significant developments favorable to the amendment that you feel we have overlooked.

Sincerely,

(Signature visible original copy)

LJ/atn

EXHIBIT "B"

APPENDIX B Titled B-7 Letter from L.Jinks to Appellant 3/14/78

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APPENDIX B-8

APPPEAL U.S. SUPREME COURT 9/8/81

Office of the Secretary of State
March Fong Eu

111 Capitol Mall
Sacramento, California 95814

CORPORATE DIVISION

Legal Review	(916) 445-0620
Certification	(916) 445-1430
Status	(916) 445-2900
Microfilm Records	(916) 445-1768
Name Availability	(916) 322-2387
Trademarks	(916) 445-9872
Statement of Officers	(916) 445-2020
Service of Process	(916) 445-0620
Los Angeles Office	(213) 620-3104

May 23, 1978

Taxpayers Unanimous
85 East San Fernando Street
San Jose, California 95113

This is in answer to your inquiry of May 11, 1978

The records of this office indicate that SAN JOSE MERCURY NEWS or KNIGHT-RIDDER PUBLICATIONS, INC.

- [X] Is not of record in this office as either a California domestic corporation or a foreign corporation.
- [ ] Is a California corporation incorporated
- [ ] Is in good standing
- [ ] Has its principal office in County.
- [ ] A statement as to the names and addresses of officers and address of principal office is on file in this office. A copy of the filed statement may be obtained for a fee of $1.00.
- [ ] A statement as to the names and addresses of agent, officers and directors and address of principal office is on file in this office. A copy of the filed statement may be obtained for a fee of $1.00.
- [ ] A statement as to names and addresses of officers and address of principal office has not been filed in this office.
- [ ] An agent for service of process has not been designated.
- [ ] Was suspended for not complying with statutory requirements. For further information, contact the Franchise Tax Board, Sacramento 95857.
- [ ] Was dissolved
- [ ] Was merged
- [ ] Its term of existence expired
- [ ] Is a corporation which has been qualified in California since
- [ ] Is in good standing.
- [ ] Agent for service of process:
- [ ] Surrendered its right to transact intrastate business in California
- [ ] Forfeited its right to transact business in California for not complying with statutory requirements. For further information, contact the Franchise Tax Board, Sacramento 95857.
- [ ] Foreign corporations are not required to file names and addresses of officers with this office.

March Fong Eu
Secretary of State

jmv/em

SEC/STATE FORM C1-1 (REV. 8-77)

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APENDIX B Titled B-8 LETTER(form) Secretary of State(Cal to appellant March 23,1978

HAL M. ROGERS
385 Delmas Avenue,
San Jose, California 95126
Phone: (408) 292-6621
In Propria Persona

Best Copy Available

IN THE UNITED STATES COURT OF APPEALS

FOR THE NINTH DISTRICT

HAL M. ROGERS Plaintiff/Appellant, vs. LARRY JINKS, P. ANTHONY RIDDER, SAN JOSE MERCURY, SAN JOSE NEWS, ONE DOE, TWO DOE, THREE DOE, Defendants/Appellees.	D.C. No. C-78-1074-SW, SJ C.A. No. 79-4190 MOTION FOR STAY OF ORDER FRAP Rule 8 (A), (B)

Before: ANDERSON, ALARCON, and POOLE, Circuit Judges

The appellant moves as follows:

That this Court issue a Stay of Order rendered on July 6, 1981 in the above entitled case because appellant intends to file an appeal to the United States Supreme Court.

Hal M. Rogers

HAL M. ROGERS, In Propria Persona

NOTICE OF MOTION

TO: LARRY JINKS, P. ANTHONY RIDDER et al:

PLEASE TAKE NOTICE, that appellant hereby seeks a Stay of the Order issued by a three man panel of Judges, District Court of Appeals for the Ninth District.

DATED: July 16, 1981

BY: Hal M. Rogers
Hal M. Rogers In Propria Persona

HAL M. ROGERS
385 Delmas Avenue,
San Jose, California 95126
Phone: (408) 292-6621
In Propria Persona

IN THE UNITED STATES COURT OF APPEALS

FOR THE NINTH DISTRICT

HAL M. ROGERS Plaintiff/Appellant, vs. LARRY JINKS, P. ANTHONY RIDDER, SAN JOSE MERCURY, SAN JOSE NEWS, ONE DOE, TWO DOE, THREE DOE, Defendants/Appellees.	D.C. No. C-78-1074-SW, SJ C.A. No. 79-4190 AFFIDAVIT IN SUPPORT OF STAY OF ORDER

Before: ANDERSON, ALARCON, and POOLE, Circuit Judges

A stay is sought of the Order in question to enable appellant to seek possible counsel and to prepare an appeal to the United States Supreme Court.

This stay is conditioned upon the fact that surety bond for costs issued by the Firemans Fund Insurance Co., #SJR633860 is in effect and the annual premium has been paid. Expiration date is March 7, 1982.

That stay be granted under the provisions of Title 28, U.S.C. Section 2101(f).

VERIFICATION

I, Hal M. Rogers, do hereby certify under penalty of perjury that I have read the foregoing Motion and Affidavit In Support of Stay of Order and know the contents thereof, and that the same is true, except as to those matters which are therein stated upon information and belief, and that as to those matters, I believe it to be true.

Executed in San Jose, California this 16 day of July 1981.

Hal M. Rogers

Hal M. Rogers In Propria Persona

JUL 23 19

United States Court of Appeals

FOR THE NINTH CIRCUIT

FILED

JUL 27 1981

RICHARD H. DEANE
CLERK, U.S. COURT OF APPEALS

HAL M. ROGERS,

Plaintiff/Appellant,

vs.

LARRY JINKS, P. ANTHONY RIDDER, SAN JOSE MERCURY, SAN JOSE NEWS, ONE DOE, TWO DOE, THREE DOE,

Defendants/Appellees.

No. 79-4190
DC CV 78-1074 SMW

ORDER ON MOTION FOR STAY OF MANDATE
(Rule 41 (b) Fed.R.App.P.)

Upon due consideration of appellant motion for stay of the mandate of this Court in the above cause pending the filing, consideration and disposition by the Supreme Court of the United States of a petition for writ of certiorari, such petition to be filed in the Clerk's Office of the Supreme Court of the United States on or before August 16, 1981,

IT IS ORDERED that the motion for stay of mandate be, and the same is hereby granted

Arthur L. Alarcon
United States Circuit Judge
ALARCON

*In the event that the motion for stay of mandate and the petition for writ of certiorari are granted, then this stay will continue pending the final disposition of the case by the Supreme Court of the United States.

CA9-003 (12/3/79)

STAY OF MANDATE, Court of Appeals Granted July 27, 191
APPENDIX C

UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

ORIGINAL
FILED
DEC 12 1978
WILLIAM L. WHITTAKER
CLERK, U. S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CASE NO. C 78-1074 SW

ORDER SETTING STATUS CONFERENCE

This action having been assigned to JUDGE SPENCER WILLIAMS,

IT IS ORDERED that a status conference will be held in the United States District Courthouse in San Francisco on

TUESDAY, Jan. 19, 1973 at ~~9:30 a.m.~~ 3:00 PM in Courtroom 2 IN SAN JOSE

THIS CONFERENCE WILL NOT BE CONTINUED BY STIPULATION OR OTHERWISE.

The parties shall appear in person or through their counsel and shall be prepared to discuss the future course of the litigation, including, but not limited to, all matters covered in Local Rule 235-3(a)-(i). A written statement need not be prepared.

At the conclusion of the conference, appropriate orders will be entered setting dates for a pretrial conference, close of discovery, and trial, and otherwise regulating and controlling future proceedings in the case. Counsel unable to appear, must file a Certificate with the court not less than seven (7) calendar days prior to the above date stating why an appearance is impossible. Dates will be set regardless of non-appearance.

FAILURE TO APPEAR AT THE STATUS CONFERENCE WITHOUT HAVING FILED A CERTIFICATE OF NON-APPEARANCE WILL RESULT IN IMPOSITION OF THE FOLLOWIN SANCTIONS: AS TO PLAINTIFF, DISMISSAL; AS TO DEFENDANT, ENTRY OF DEFAULT JUDGMENT.

In addition to strict compliance with the Federal Rules of Civil Procedure and the Local Rules of the Northern District of California, counsel must also:

1. Afford the opposite party(ies) the broadest possible discovery consistent with any reasonable theory of relevance.

2. Prior to the status conference, limit their interrogatories to twenty (20) questions (including subsections) which shall be specifically directed to a) securing the names, location and probable testimony of witnesses, b) the existence, location and general description of relevant documents and other physical evidence, and c) information concerning the transaction(s) upon which the claims for relief are based. Broadly generalized, boilerplate interrogatories will not be permitted. Authorization for further interrogatories shall be discussed at the status conference.

PLAINTIFF WILL SERVE COPIES OF THIS ORDER AT ONCE UPON ALL PARTIES TO THIS ACTION AND UPON THOSE SUBSEQUENTLY JOINED IN ACCORDANCE WITH TH PROVISIONS OF FEDERAL RULES OF CIVIL PROCEDURE 4 AND 5 AND FILE A CERTIFICATE REFLECTING SUCH SERVICE WITH THE CLERK OF THE COURT.

Best Copy Available

Spencer Williams

CASES BEFORE THE HONORABLE SPENCER WILLIAMS

In cases of San Francisco venue, the LAW AND MOTION calendar is heard every Friday morning at 10:00 am. Notice of Motions must be served upon opposing counsel at least 21 days prior to the date for hearing.

In cases of San Jose venue, the Criminal Calendar is heard every first and third Friday of the month at 2:00 pm in San Jose. The Civil Calendar is heard every first and third Friday also, at 3:00 pm in San Jose.

Status Conferences are held on Tuesdays in San Francisco cases, at 9:00 am. Such conferences cannot be continued or reset for any reason. Should appearance at Status Conference be impossible, counsel must file a Certificate of Counsel at least seven days prior to the date set for Conference. The Conference will proceed as calendared with the parties able to attend. Failure to make Service of the Complaint or lack of defendant's Answer are not deemed sufficient cause to vacate or reset a Status Conference.

The Court requests that all inquiries be addressed to the deputy clerk, Pascal Redburn, in writing rather than by telephone.

Stipulations to continue a Noticed Motion on Judge Williams' calendar must be recieved by the Court not less than seven days prior to the date originally set for the hearing.

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UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

CASE NO. C-78-1074 WAI SJ

FILED

NOV 21 1978

Hal Rogers vs Larry Jinks

WILLIAM L. WHITTAKER, CLERK

REASSIGNMENT ORDER

Good cause appearing therefor,

IT IS ORDERED that this case is reassigned to HONORABLE SPENCER WILLIAMS, SAN JOSE DIVISION for all further proceedings.

Counsel are instructed that all future filings shall bear the initials SW, SJ immediately after the case number

ALL MATTERS PRESENTLY SCHEDULED FOR HEARING ARE VACATED AND SHOULD BE RENOTICED FOR HEARING BEFORE THE JUDGE TO WHOM THE CASE HAS BEEN REASSIGNED.

DATE: ~~2[illegible] 1978~~ 21 NOV 1978

FOR THE ASSIGNMENT COMMITTEE:

CHIEF JUDGE

APPENDIX C MATTERS VACATED REASSIGNMENT ORDER Nov. 21,1978

NEW CASE FILE CLERK:

Copies to: Courtroom Deputies
Special Projects
Log Book Noted
~~Ballots Replaced in Category I~~
Reassignment log noted SW

CASE SYSTEM ADMINISTRATOR:

Copies to: All Counsel

Best Copy Available

BAKER, ONEAL, CENTER, LUCKHARDT,
HARLAIS, LUND & HINSHAW
FIRST NATIONAL BANK BUILDING
SAN JOSE, CALIFORNIA 95113
TELEPHONE (408) 293-0463

ATTORNEYS FOR Defendants,
Larry Jinks, P. Anthony Ridder,
San Jose Mercury News, San Jose News

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

HAL M. ROGERS, Plaintiff, vs. LARRY JINKS, P. ANTHONY RIDDER, SAN JOSE MERCURY, SAN JOSE NEWS, ONE DOE, TWO DOE, THREE DOE, Defendants.	NO. C-78-1074 WAI ORDER

This matter having come on regularly for hearing on August 11, 1978 before the HONORABLE WILLIAM A. INGRAM, Judge of the United States District Court, Plaintiff, HAL M. ROGERS, appearing In Propria Persona, and LOUIS ONEAL, Esquire, appearing on behalf of Defendants, good cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Defendants' Motion to Dismiss is granted and Plaintiff shall have thirty (30) days leave to amend his complaint to assert jurisdictional grounds.

DATED: _____

WILLIAM A. INGRAM

UNITED STATES DISTRICT COURT JUDGE

plaintiff does not make any allegations, either in his papers or orally, that he and the defendants in this action are of diverse citizenship within the meaning of 28 U.S.C. § 1332(a).

2. This Court does not have jurisdiction of this action under 28 U.S.C. § 1331. The claims asserted under the First and Fourteenth Amendments of the United States Constitution are legally "wholly insubstantial and frivolous." Bell v. Hood, 327 U.S. 678, 682-83 (1946). See also Hagans v. Lavine, 415 U.S 528, 542-43 (1974).

3. This Court does not have jurisdiction of this action under 28 U.S.C. § 2201. Section 2201 "does not establish a new basis for jurisdiction in the federal courts; it merely establishes a new remedy, available in cases in which jurisdiction otherwise exists." Lear Siegler, Inc. v. Adkins, 330 F.2d 595, 599 (9th Cir. 1964). Jurisdiction does not otherwise exist in the present case.

Accordingly, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the above-captioned matter be dismissed with prejudice for lack of subject matter jurisdiction.

Dated: JAN 31 1979

UNITED STATES DISTRICT JUDGE

FILED

JUL 6 1981

RICHARD H. DEANE
CLERK, U.S. COURT OF APPEALS

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

HAL M. ROGERS, Plaintiff/Appellant vs. LARRY JINKS, P. ANTHONY RIDDER SAN JOSE MERCURY, SAN JOSE NEWS, et al	D.C. No. C 78-1074-SW C.A. No. 79-4190 O R D E R

Before: ANDERSON, ALARCON, and POOLE, Circuit Judges

Appellant's petition for rehearing is denied.

APPENDIX E. ORDER Court of Appeals Rehearing Denied July 6,1981

HAL M. ROGERS
385 Delmas Avenue,
San Jose, California 95126
Phone: (408) 292-6621

In Propria Persona

RECEIVED
RICHARD H. DEANE
CLERK U.S. COURT OF APPEALS

AUG 7 1981

FILED 8/7/81
DOCKETED DATE INITIAL

IN THE UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

HAL M. ROGERS Plaintiff/Appellant, vs. LARRY JINKS, P. ANTHONY RIDDER, SAN JOSE MERCURY, SAN JOSE NEWS, ONE DOE, TWO DOE, THREE DOE, Defendants/Appellees.	C.A. No. 79-4190 S. Ct. Rule 10

NOTICE OF APPEAL TO THE SUPREME COURT

OF THE UNITED STATES

NOTICE is hereby given that Hal M. Rogers, the appellant above-named, hereby appeals to the Supreme Court of the United States from the final Order of the Court of Appeals denying appellant's petition for rehearing in this suit dated July 6, 1981.

This appeal is taken pursuant to Title 28, United States Code, Section 1253, (direct appeals from decisions of 3 judge courts) 26 L. Ed 2d 947.

Dated: August 6, 1981

Hal M. Rogers
Hal M. Rogers,
In Propria Persona
San Jose, California

NOTICE OF APPELA TO THE SUPREME COURT OF THE UNITED STATES
FILED IN THE DISCTRICT COURT OF APPEAL August 7,1981

AFFIDAVIT OF SERVICE - SERVICE BY MAIL

STATE OF CALIFORNIA

COUNTY OF SANTA CLARA

I, Hal M. Rogers, deposes and say that I am the appellant and that on September 8, 1981, pursuant to Rule 33(3)(c), Rules of the Supreme Court, I served a copy of the attached, pursuant to Rule 28(3) Rules of the Supreme Court

APPENDICES

on counsel of record for the appellees by mailing this copy in a duly addressed envelope with first class postage prepaid to LOUIS ONEAL, counsel for the appellees to his office at,

Rankin, Oneal, Center, Luckhardt
Marlais, Lund & Hinshaw
First National Bank Building,
2 West Santa Clara St.
San Jose, California 95113

I further certify, under penalty of perjury, that the foregoing statement is true and correct.

Hal M. Rogers

RECEIVED
RICHARD H. DEANE
CLERK U.S. COURT OF APPEALS
AUG 20 1981
FILED
DOCKETED
DATE
INITIAL

HAL M. ROGERS
385 Delmas Avenue
San Jose, California 95126
Phone: (408) 292-6621

In Propria Persona

IN THE UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

HAL M. ROGERS

Plaintiff/Appellant,

vs.

LARRY JINKS, P. ANTHONY RIDDER, SAN JOSE MERCURY, SAN JOSE NEWS, ONE DOE, TWO DOE, THREE DOE,

Defendants/Appellees.

C-78-1074-SW SJ
C.A. No. 79-4190

MOTION TO CORRECT ERROR
Rule 15 FRCP

The appellant moves the Court as follows:

That a correction be entered in the Notice of Appeal to the Supreme Court of the United States dated August 7, 1981.

That Lines 23 to 25 inclusive be deleted and a new paragraph inserted to read as follows:

That a direct appeal is taken pursuant to Title 28, United States Code, Section 1254(2), that shall preclude review by writ of certiorari at the instance of such appellant, and the review on appeal shall be restricted to federal questions presented.

August 18, 1981
Date

Hal M. Rogers
Hal M. Rogers
In Propria Persona
San Jose, California 95126

APPENDIX F MOTION FOR CORRECTION OF ERROR TO NOTICE OF APPEAL TO THE SUPRME COURT OF THE UNITED DTATES to Court of Appeals Dated August 20th, 1981